

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

MAX MAJOR,

Plaintiff,

v.

BRIDGECREST,

Defendant.

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Civil Action No.

Jury Trial Demanded

COMPLAINT

MAX MAJOR (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against BRIDGECREST (“DEFENDANT”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the State of Texas, thus, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person living in Houston, Texas 77090.

4 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5 7. Defendant is a “person” as that term is defined by 47 U.S.C. §
6 153(39).

7 8. Defendant is a corporation with its principal place of business located
8 at 7300 East Hampton Avenue, Suite 100, Mesa, Arizona 85209.

9 9. Defendant acted through its agents, employees, officers, members,
10 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
11 representatives, and insurers.

12 **FACTUAL ALLEGATIONS**

13 10. Plaintiff has a cellular telephone number.

14 11. Plaintiff has only used this number as a cellular telephone number.

15 12. Beginning in late July 2016, Defendant called Plaintiff on his cellular
16 telephone multiple times daily.

17 13. When contacting Plaintiff on his cellular telephone, Defendant used an
18 automatic telephone dialing system.

19 14. The automated calls would include a pre-recorded voice from
20 Defendant before the calls were transferred to live agents.

1 15. Defendant's telephone calls were not made for "emergency purposes."

2 16. During the fourth or fifth call in mid July 2016, Plaintiff spoke with
3 Defendant and revoked any consent that may have been given to Defendant to call
4 his cellular telephone number.
5

6 17. However, Defendant failed to update its systems and ignored
7 Plaintiff's revocation and continued to call Plaintiff through August 2016.
8

9 18. After Plaintiff's frequent requests to Defendant's representatives to
10 stop were ignored, Plaintiff had no other viable option but to block calls from
11 Defendant's phone numbers.
12

13 19. Upon information and belief, Defendant conducts business in a
14 manner which violates the Telephone Consumer Protection Act.
15

16 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER**
17 **PROTECTION ACT**

18 20. Plaintiff incorporates the forgoing paragraphs as though the same were
19 set forth at length herein.
20

21 21. Defendant initiated automated calls to Plaintiff using an automatic
22 telephone dialing system.

23 22. Defendant's calls to Plaintiff were not made for emergency purposes.
24

25 23. Defendant's calls to Plaintiff, on and after mid July 2016, were not
26 made with Plaintiff's prior express consent.
27

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MAX MAJOR, demands a jury trial in this case.

Respectfully submitted,

DATED: March 9, 2017

By: /s/ Amy Lynn Bennecoff Ginsburg
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